IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE SECOND DAY OF JULY,
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 1490 of 1997

Between:

Md. Moulana, S/o. Hussain (E.No.319235),
Aged about 39 years, R/o.Karimnagar, Working
As Conductor, APSRTC, Depot-I, Karimngar.

..... PETITIONER

AND

1. Regional Manager, Karimnagar Zone, APSRTC,
   Karimnagar.
2. The Depot Manager, Karimnagar Depot-I, APSRTC,
   Karimnagar District.
3. The Senior Manager (O), APSRTCS, Karimnagar.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction especially one in the nature of mandamus :

i. declaring the impugned office order No.01/804(6)/94-KR-1, dated 25-05-1995 along with the Appellate Order No.PA/19(164)95-SMO:KRMR dated 22-08-1995, as illegal, arbitrary and set aside the same;

ii. direct the respondents to refix the petitioner's pay duly releasing his withheld increments; and

iii. pass any such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.K.VASUDEVA REDDY

Counsel for the Respondents: MR.K.HARINATH (SC FOR APSRTC)

The Court Made the Following :

ORAL ORDER :

This writ petition is filed seeking a declaration that the order dated 25-5-1995 passed by the Depot Manager, A.P.S.R.T.C., Karimnagar imposing the penalty of withholding increments for two years with cumulative effect, as confirmed in Appeal by the Regional Manager, Karimnagar on 22-08-1995 is arbitrary and illegal.

The petitioner was appointed as Conductor in Andhra Pradesh State Road Transport Corporation (for short, 'Corporation') on 20-04-1992 and his services were regularized with effect from 01-08-1994. He was served with charge-sheet dated 21-03-1995 alleging that while performing his duties on 08-12-1994 certain ticket blocks of denominations of Rs.100/- and Rs.50/- were lost due to his negligence. The charges were framed under Regulation 28(V) and 28(IX)(a) of A.P.S.R.T.C. Employees (Conduct) Regulations, 1963. The petitioner submitted his explanation dated 29-03-1995 stating that he was performing his duty on 08-12-1994 on route from Karimnagar to Vijayawada for transporting the Police personnel who were on election duty. After reaching Vijayawada, the Police personnel while unloading their luggage took away his tray box containing the tickets. Subsequently, he could trace the tray box at the Police camp, but it was found that two ticket blocks of Rs.50/- and Rs.100/- were missing. He stated that he has also reported the said fact in the Depot immediately and that there was no negligence on his part as alleged. However, a show-cause notice dated 08-05-1995 was

served on him. In the said show-cause notice, the Depot Manager while stating that on the basis of the material available, it has been provisionally concluded that the charges levelled against him stand proved and therefore it has been decided that he should debit a sum of Rs.12/- towards the cost of printing and stationery of lost ticket blocks besides taking disciplinary action for negligence while on duty, called upon him to show-cause as to why the said sum of Rs.12/- towards the cost of printing and stationery of lost ticket blocks should not be recovered from him. The petitioner submitted his explanation dated 13-05-1995 reiterating that the missing of the ticket blocks was only under the circumstances already explained in his previous explanation and that the same was not intentional and therefore requested to drop the proceedings. However, by impugned order dated 25-05-1995 the Depot Manager, Karimnagar intimated the petitioner that on the basis of the evidence available on record together with the circumstances of the case he has come to the conclusion that the charges framed against him stand proved for which the penalty of withholding his annual increment for a period of two years with cumulative effect has been imposed, apart from the penalty of recovery of Rs.12/- from his salary towards cost of printing and stationery of lost ticket blocks. The petitioner preferred an Appeal to the Regional Manager, Karimnagar, but the same was rejected by order 22-08-1995. Aggrieved by the same, this Writ Petition has been filed.

Though Rule Nisi was issued on 03-02-1997, the respondents did not choose to file any counter-affidavit.

I have heard the learned Counsel for the petitioner and the learned Standing Counsel for the Corporation.

On behalf of the petitioner, an additional affidavit has been filed on 22-06-2004 raising an additional plea that since admittedly no departmental enquiry was conducted before issuing the impugned

order imposing penalty of withholding of the increments which is a major punishment, the impugned orders cannot be sustained and liable to be set aside.

The learned Counsel for the petitioner in support of his contentions placed reliance upon a decision of this Court reported in S.K. MASTHAN v. APSRTC[1] in which under identical circumstances it was held that denial of increments with cumulative effect tantamounts to a major penalty and the same cannot be imposed without holding a regular departmental enquiry in terms of relevant service regulations.

Regulation 8 of the Andhra Pradesh State Road Transport Corporation (Classification, Control & Appeal) Regulations, 1967 provides for penalties which include withholding of increments.

As can be seen from the material on record, admittedly the penalty under the impugned order was imposed on the petitioner without holding any departmental enquiry. The said fact could not be disputed by the learned Standing Counsel for the Corporation.

In the circumstances, as rightly contended by the learned Counsel for the petitioner the impugned order which was admittedly passed without holding any departmental enquiry cannot be sustained.

Accordingly, the impugned order dated 25-05-1995 as well as the order of the Appellate Authority dated 22-08-1995 are set aside and the writ petition is allowed. However, it is made clear that this shall not preclude the respondents to pass orders afresh, if they so choose, after following due process of law. No costs.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this 02nd day of July, 2004.

02nd July, 2004.

Gbs

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Note:- C.C. in one week.

(B/O)

gbs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. Regional Manager, Karimnagar Zone, APSRTC,
   Karimnagar.
2. The Depot Manager, Karimnagar Depot-I, APSRTC,
   Karimnagar District.
3. The Senior Manager (O), APSRTCS, Karimnagar.
4. 2CD copies

THE HON'BLE MS. JUSTICE G.ROHINI

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02ND JULY, 2004.

[1] 1999 (2) ALT 109